Supreme Court, U.S.
FILED
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JOSEPH F. SPANIOL, JR.
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(2)

NO. 271

90-271

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1990

JOSEPH N. AQUILINA, M.D. - PETITIONER
vs.
UNITED STATES OF AMERICA,
U.S. JUSTICE DEPARTMENT
IMMIGRATION & NATURALIZATION SERVICE

PETITION FOR WRIT OF CERTORIARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MOTION TO INTERVENE

ROSEMARIE E.A. BARONE, J.D.
In Pro. Per.
1825 CHESTER ROAD
LANSING, MICHIGAN 48912
Tel: (517) 485-8079

BEST AVAILABLE COPY

QUESTIONS PRESENTED

(1) Whether U.S.C. Section 301(a)(7) 1952, now Section 301(g) violates due process and equal protection by requiring a ten year residence prior to granting passage of 'jus sanguinis' rights, when U.S.C. Section 301(a)(4) 1952, now Section 301(d) only requires a one year residence for the same right?

(2) Whether U.S.C. Section 301(a)(7) 1952, now Section 301(g) violates Petitioner's fundamental right, freedom of choice, of whom to marry by imposing the ten year residence requirement?

(3) Would a ten year residence requirement which results in the loss of 'jus sanguinis' rights and stateless progeny be considered a denial of due process as well as cruel and unusual punishment violative of the Fifth, Eight and Fourteenth Amendments?

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SUPREME COURT OF THE UNITED STATES

File No. 271

HONORABLE JUDGE: _____

JOSEPH N. AQUILINA, M.D.,
PETITIONER,
ROSEMARIE E. A. BARONE, J.D.
INTERVENOR,
JOSEPH W. AQUILINA, M.D.,
INTERVENOR

v.

UNITED STATES OF AMERICA,
U.S. Justice Department,
Immigration & Naturalization,

MOTION FOR INTERVENTION OF PARTIES

NOW COMES the intervening parties, namely, ROSEMARIE ELIZABETH AQUILINA BARONE, J.D., a resident of Lansing, Michigan, in pro. per., and JOSEPH WOLFGANG AQUILINA, M.D., a resident of Lincoln Park, Michigan, in pro. per. and for their Motion For Intervention Of Party, states as follows:

1. That Rosemarie Elizabeth Aquilina Barone, J.D., (hereinafter referred to as "intervenor") was born on April 25, 1958 to Joseph N. Aquilina, M.D. and Johanna E. Aquilina, in Munich, Germany.

2. That Joseph Wolfgang Aquilina, M.D., (hereinafter referred to as "intervenor") was born on March 27, 1959 to Joseph N. Aquilina, M.D. and Johanna E. Aquilina, in Munich, Germany.

3. That in 1959, DR. JOSEPH N. AQUILINA, a Fourteenth Amendment citizen of the United States, the father of Rosemarie E. A. Barone (minor) and Joseph W. Aquilina (minor) applied for a United States passport for each to enter the United States.

4. That upon applying for passports, the intervenors were not recognized by the United States as United States citizens under the authority of §301(a)(7) 1952,, now §301(g) since the father had not resided in the United States for 10 years prior to the birth of the intervenors.

5. That the mother of the intervenors, Mrs. Johanna Aquilina, née Gleissner, a German national, then applied for a German passport for the intervenors.

6. That the German passport was denied since the government of Germany recognized the United States citizenship rights through the father for these legitimate children.

7. That the intervenors were issued "stateless" passports by the Government of the State of Bavaria, Germany.

8. The intervenors along with their mother immigrated to the United States on August 13, 1959.

9. That the intervenors were naturalized United States citizens along with their mother on May 1, 1968.

10. That as a result of the United States citizenship by naturalization, the intervenors are classified under the Immigration and Naturalization Department citizenship classification as naturalized citizens rather than as citizens that had acquired their citizenship by derivation through a citizen father.

11. That the intervenors have to continue to answer government questionnaires stating that they were born 'stateless'.

12. That the 'stateless' classification has created for them additional paperwork, forms and questions which must be answered.

13. That the forms, questions and additional paperwork is beyond that of any other U.S. Citizens when filling formal documents.

14. That filling out such extra documents and answering extra questions have additionally caused time delays, such as for intervenor Rosemarie E. A. Barone, J.D., upon applying for military service and upon application to take the Michigan Bar Examination, and for intervenor Joseph W. Aquilina, M.D. upon applying to various universities and programs.

15. That the intervenors have an interest in the outcome of Petitioner Joseph N. Aquilina, M.D.'s case.

16. That the intervenors are directly affected and impacted by the outcome of the case before this Honorable Court.

17. That the intervenors have standing to come before this Honorable Court under similar principles of law and equity as the Petitioner, Joseph N. Aquilina, M.D.

18. That the principles affecting the intervenors, in part, deal with the right to receive 'jus sanguinis' rights from the citizen parent under the authority of §301(a)(4) 1952, now §301(d) and that as children of a U.S. citizen the children were additionally denied due process as well as being the recipients of cruel and unusual punishment, violative of the Fifth, Eighth and Fourteenth Amendments.

19. That the intervenors have additionally the same rights as other children of U.S. citizens born abroad and are also qualified to the same citizenship classification by the Immigration & Naturalization Service as other children of United States citizens who qualified under §301(a)(4) 1952, now §301 (d).

WHEREFORE, BOTH INTERVENORS RESPECTFULLY REQUEST that:

A. They be allowed to intervene in this law suit as Plaintiff parties.

B. An Order has been properly attached which the intervenors respecfully requests this Honorable Court to review and sign, should it agree with the intervention.

Dated: _____ By: _____
ROSEMARIE E.A. BARONE, J.D.
In Pro. Per.

Dated: _____ By: _____
JOSEPH W. AQUILINA, M.D.
In Pro. Per.

SUPREME COURT OF THE UNITED STATES

File No. 271

JOSEPH N. AQUILINA, M.D.,
PETITIONER,
ROSEMARIE E. A. BARONE, J.D.
INTERVENOR,
JOSEPH W. AQUILINA, M.D.,
INTERVENOR

v.

UNITED STATES OF AMERICA,
U.S. Justice Department,
Immigration & Naturalization,
RESPONDENT

ORDER FOR INTERVENTION OF PARTIES

AT A SESSION OF SAID COURT, HELD IN THE COURT HOUSE IN THE CITY OF , COUNTY OF , STATE OF , ON THE DAY OF , 1990,A.D.

PRESENT: THE HONORABLE _____

INTERVENORS, Rosemarie E. A. Barone, J.D., and Joseph W. Aquilina, M.D., having made a motion on or about the day of , 1990 A.D., In Pro. Per. and this Honorable Court having read the motion submitted by the intervenors, this Honorable Court being fully advised as to the reasons for the request for an intervention into the case of Joseph N. Aquilina, M.D., v. United States of America, U.S. Justice Department of Immigration & Naturalization;

NOW THEREFORE, IT IS HEREBY ORDERED that the Motion For The Intervention of Parties, those persons being added as Plaintiff's and being Rosemarie Elizabeth Aquilina Barone, J.D. and Joseph Wolfgang Aquilina, M.D. be granted.

Dated:_____ _____

THE HONORABLE JUDGE

SUPREME COURT OF THE UNITED STATES
October Term 1990

NO. 271

Joseph N. Aquilina, M.D., Petitioner; Rosemarie E.A. Barone, J.D., Intervenor; Joseph W. Aquilina, M.D., Intervenor.

vs.

United States of America, U.S. Justice Department of Immigration & Naturalization, Defendant, Respondent

PROOF OF SERVICE

I, Rosemarie E.A. Barone, J.D., do swear or declare that on this date , 1990, A.D., pursuant to Supreme Court Rules 29.3 and 29.4, I have served the attached MOTION TO INTERVENE on each partly to the above proceeding, or that parties counsel by depositing an envelope containing the above documents with the United States Post Office, properly addressed to each of them and with first class postage pre-paid affixed thereon, and also each envelope was mailed return receipt.

The names and addresses of those served are as follows:

1. SUPREME COURT OF THE UNITED STATES: Attention: Clerk; 1 First Street, N.E.; Washington, D.C. 20543.

2. The Honorable Kenneth W. Starr, J.D., Solicitor General, Department of Justice; Washington, D.C. 20530.

By: _____
ROSEMARIE E.A. BARONE, J.D.
In Pro. Per., Intervenor, Plantiff
1825 Chester
Lansing, MI 48912

Subscribed and sworn before me
on the day of , 1990, A.D.
in the county of Saginaw, State of Michigan.
My commission expires: _____.

_____
Notary Public in and for said County and State.